

# **EXHIBIT 2**

**In The Matter Of:**

*Donald L. Moshier, Jr., v.  
United States of America, et al.*

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*Donald L. Moshier, Jr.  
July 30, 2007*

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[1] with Hepatitis C?  
[2] A. Yes.  
[3] Q. In your own words, do you know what Hepatitis C is?  
[4] A. Yeah, it's a disease that eventually kills ya.  
[5] Q. Do you know how it kills you?  
[6] A. It eats your liver up.  
[7] Q. When did you first find out that you have Hepatitis C?  
[8] A. Um, when I got to prison.  
[9] Q. Do you remember what year?  
[10] A. 2002.  
[11] Q. Do you remember why you were tested for Hepatitis C?  
[12] A. I asked to be tested.  
[13] Q. And why did you ask to be tested for Hepatitis C?  
[14] A. Oh, because I was sick. I was feeling sick all the time  
[15] and I was talking to somebody else that had Hepatitis C, he  
[16] said, my God, he says I feel that way, too. You better get  
[17] checked. So I figured I better get checked.  
[18] Q. You said you were feeling sick all the time. What kind of  
[19] symptoms were you experiencing?  
[20] A. Well, I still feel it.  
[21] Q. Well, let's talk about that time.  
[22] A. At the time I was fatigue, no energy. I felt like I had a  
[23] cold all the time going on, headaches, nausea.  
[24] Q. And you mentioned -- I'm sorry?  
[25] A. Just normal type, like having a normal cold like, that

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[1] type of feeling.  
[2] Q. And you mentioned that you talked to somebody else who had  
[3] Hepatitis C. Who was that person?  
[4] A. Oh, I don't know, some inmate that was there.  
[5] Q. Do you remember that inmate's name?  
[6] A. Off the top of my head, I talked to several of them. I  
[7] talked to several people there. But I believe it might have  
[8] been Raymond Cornwell.  
[9] Q. I'm sorry, what was that name?  
[10] A. I said I believe it might have been Ray Cornwell that I  
[11] talked to first about it. He is one of my witnesses I believe.  
[12] Q. Did you say that name was Ray Cornwell? I'm just trying  
[13] to gets it for the court reporter.  
[14] A. Yeah.  
[15] Q. Raymond Cornwell, C-o-r-n-w-e-l-l; is that correct?  
[16] A. Yes.  
[17] Q. Okay. Any other inmates that you talked to that told you  
[18] to get tested for Hepatitis C?  
[19] A. Well, I talked to Ray. I talked to a few of them. I  
[20] talked to my cell mate at the time.  
[21] Q. And who was your cell mate?  
[22] A. He didn't know nothing.  
[23] Q. Okay.  
[24] A. At the time it was James Fowers.  
[25] Q. James Fowers, F-o-w-e-r-s; correct?

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[1] A. Correct.  
[2] Q. Okay.  
[3] A. I talked to Darryl Cherry.  
[4] Q. Okay.  
[5] A. I got these guys down as witnesses here.  
[6] Q. Okay. We'll go over that later. So the inmates that you  
[7] are saying you talked to who advised you to get tested were  
[8] Raymond Cornwell and Darryl Lee Cherry; is that correct?  
[9] A. Well, I talked to them about it. They didn't advise me  
[10] nothing.  
[11] Q. Okay.  
[12] A. I just said well, I'm going to get tested. James Fowers,  
[13] I had already been tested and he didn't come into the scene for  
[14] a year later. But he was my cell mate a year or two later, you  
[15] know, and he seen how sick I was all the time.  
[16] Q. Okay.  
[17] A. I had Hep C.  
[18] Q. I'm asking who you talked to at the time that you were  
[19] tested for Hepatitis C when you requested to be tested. And  
[20] that you said was Ray Cornwell and Darryl Cherry?  
[21] A. Yeah. Yeah, then I talked to those guys. Other names, I  
[22] don't know.  
[23] Q. Okay.  
[24] A. Not that I can remember offhand.  
[25] Q. Was there any other reason that you requested being tested

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[1] for Hepatitis C?  
[2] A. Well, because I had tattoos throughout the years of my  
[3] life, and that was one of the big things. Plus I used to use  
[4] needles when I was younger.  
[5] Q. What do you mean you used to use needles when you were  
[6] younger? Are you referring to intravenous drug use?  
[7] A. Yes, exactly.  
[8] Q. I've already marked some documents as exhibits.  
[9] MS. FARRELL: Mr. Heider, could you show Mr. Moshier,  
[10] Moshier Exhibit 2?  
[11] A. Got it right here.  
[12] Q. Okay. I'm going to ask you to turn to page 107 and let me  
[13] just identify that for the record. Exhibit 2 is a series of  
[14] medical records and because of the way we are doing this  
[15] deposition by satellite, if it's okay, I'm going to identify  
[16] them as we go through them because I may not use all of them.  
[17] But I'm asking you to turn to page 107. Do you see that there?  
[18] It's a chronological --  
[19] A. I don't see no numbers on them.  
[20] Q. Do you have something that's marked on the front that says  
[21] Defendant's Exhibit Moshier 2?  
[22] A. Yeah.  
[23] Q. Okay. And do you see in the bottom right-hand corner  
[24] there is numbers on that first page it's 000074?  
[25] A. Okay, yeah, I got it.

[1] Q. Okay. I'm sorry.  
[2] A. 102?  
[3] Q. No, sir, 107, please.  
[4] A. All right.  
[5] Q. Let me know when you are there. And --  
[6] A. I'm there.  
[7] Q. And that is a chronological record of medical care. I'm  
[8] going to ask you to look around the middle of the page there is  
[9] an entry on the right hand side that says 9/2/03.  
[10] A. Yeah.  
[11] Q. And then there is corresponding text about three lines  
[12] down. I'm going to read it. It says "wants Hep C test, IV drug  
[13] use, snort cocaine, unprotected sex." Do you see that there?  
[14] A. Yep.  
[15] Q. I just want to know if that document refreshes your  
[16] recollection that you requested a test for Hepatitis C because  
[17] you had a history of IV drug use, cocaine and unprotected sex?  
[18] A. Yes, just like it says.  
[19] Q. Okay. Do you know how Hepatitis C spreads?  
[20] A. Through blood.  
[21] Q. Okay.  
[22] A. Transfusion of blood.  
[23] Q. And how did you learn this?  
[24] A. I learned it by writing to places and getting information  
[25] on it.

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[1] that's responsive to our requests for information --  
[2] A. Yes.  
[3] Q. -- that we sent you. Okay. And I just want to follow up  
[4] on what I just read on page 107 and what you talked about  
[5] earlier. You said you had a history of IV drug use. And I just  
[6] want to know which drugs have you taken intravenously?  
[7] A. Cocaine.  
[8] Q. Any others?  
[9] A. No.  
[10] Q. When is the first time you took cocaine intravenously?  
[11] A. Back in, I don't know, back in '85 maybe, '86, somewhere  
[12] around back in the '80s there.  
[13] Q. And approximately when is the last time you used cocaine  
[14] intravenously?  
[15] A. Around '87, '88.  
[16] Q. Can you estimate or do your best how many times you have  
[17] taken cocaine intravenous?  
[18] A. Yeah, not many. Maybe 15, 20 times.  
[19] Q. Okay. During the times that you used cocaine  
[20] intravenously, did you share needles with anybody?  
[21] A. No.  
[22] Q. Did you ever share any other equipment for injecting  
[23] cocaine such as cotton or spoons or water?  
[24] A. No.  
[25] Q. Did you use cocaine intravenously with anybody who you

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[1] Q. What places did you write to?  
[2] A. I don't know now. I ain't got all that paperwork here. I  
[3] wrote to several hepatitis places. I wrote, I know one was out  
[4] in California. I got information other places. I talked to  
[5] Dr. Beam about it.  
[6] Q. When did you write to places requesting information about  
[7] Hepatitis C?  
[8] A. Oh, as soon as I found out I had it.  
[9] Q. Okay. And if you have those records, I understand you are  
[10] in, you said you are in the SHU currently; is that correct?  
[11] A. Yeah.  
[12] Q. When you get access to your records, I think there is a  
[13] response, those are responsive to requests I asked you for  
[14] information, if you could send me, you know, the letters that  
[15] you have written and information you have received in response  
[16] about Hepatitis C, could you do that for me?  
[17] A. Yeah, I don't know if I have any of that stuff yet.  
[18] Q. Okay.  
[19] A. When I transferred from Lewisburg to here, a lot of my  
[20] things were gone, you know what I mean.  
[21] Q. Okay.  
[22] A. So I don't even know if I have them. I'll look and see  
[23] what I have.  
[24] Q. When you get access to those documents, if you have  
[25] anything, like I said, please send that to me, because I think

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[1] knew or now know had Hepatitis C?  
[2] A. No.  
[3] Q. Okay. I also want to follow up on the statement to the  
[4] physician's assistant that you requested the Hepatitis C test  
[5] because you had unprotected sex. Is it correct that prior to  
[6] your incarceration you had unprotected sex?  
[7] A. Yeah.  
[8] Q. Did you ever have a sexual partner who you knew or now  
[9] know had Hepatitis C?  
[10] A. No.  
[11] Q. Did you receive a blood transfusion prior to 1992?  
[12] A. No.  
[13] Q. Okay.  
[14] A. I don't believe so.  
[15] Q. And you also mentioned that you have had tattoos?  
[16] A. Yes.  
[17] Q. Do you know if the needles used for tattooing were used on  
[18] anyone with Hepatitis C?  
[19] A. No, they weren't.  
[20] Q. How many tattoos do you have?  
[21] A. 1, 2, 3, 4.  
[22] Q. Okay. So four tattoos?  
[23] A. Yes.  
[24] Q. And did you receive all of those tattoos at tattoo  
[25] parlors, I guess for lack of a better term, or were any of those

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[1] here with me, but I did just get them medical records here last  
[2] week.  
[3] Q. Okay. I'm going to switch around documents here. Do you  
[4] see a document entitled Defendant's Exhibit Moshier 1, do you  
[5] have that with you?  
[6] A. What is that?  
[7] Q. There is a --  
[8] A. Is that the Interrogatories?  
[9] Q. Yes, sir.  
[10] A. Uh-huh.  
[11] Q. It's entitled Defendant's First Set of Interrogatories  
[12] and --  
[13] A. I got it, yep, right here.  
[14] Q. Okay. And just so you know I'm going to try not to cut  
[15] you off, too, so if you can try to remember to let me finish my  
[16] question.  
[17] A. Okay.  
[18] Q. Just for the benefit of the court reporter. I'm going to  
[19] identify this document, Moshier Exhibit 1 is Defendant's First  
[20] Set of Interrogatories and Request for Production of Documents.  
[21] And what I marked has your typewritten answers to each  
[22] Interrogatory.  
[23] Can you turn please to page 21, your Answer to  
[24] Interrogatory number 16. Let me know when you are on that page.  
[25] A. Yep.

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[1] Q. And the first part of your answer I'm going to read it  
[2] says "It is an established fact that in the very beginning the  
[3] Plaintiff was interviewed by prison staff, he stated he may have  
[4] contacted Hepatitis C, some 20-years prior." Do you see that  
[5] there?  
[6] A. Yep.  
[7] Q. So who did you tell from the prison staff that you may  
[8] have contacted Hepatitis C 20 years ago?  
[9] A. Well, Dr. Beam.  
[10] Q. Okay.  
[11] A. That's what we were having the discussion about. Where he  
[12] told me, how most people get Hepatitis C is through intravenous  
[13] drugs. I said well, I probably had it 20 years then. Because  
[14] that's when I did the drugs 20 years ago.  
[15] Q. Okay. Thanks for clarifying your answer. You can put  
[16] that document away. I want to go back to page 101 from  
[17] Deposition Exhibit 2. A few lines, maybe like two-thirds down  
[18] the page there is a typed written entry "recent lab results"; do  
[19] you see that there?  
[20] A. I see something written there.  
[21] Q. Okay. On page 100 recent lab results on that same line in  
[22] handwriting, it says "in contact with attorney"?  
[23] A. Okay.  
[24] Q. Do you see that, sir?  
[25] A. Yeah, I'm on the wrong page.

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[1] Q. Page 100 of Exhibit 2?  
[2] A. 101?  
[3] Q. No, 100, please.  
[4] A. Oh, page 100, okay.  
[5] Q. It's across from the typed line "recent lab results." And  
[6] I just wanted to refer you to the handwriting that reads "in  
[7] contact with attorney." Do you see that, sir?  
[8] A. Oh, yeah, okay, yep.  
[9] Q. My question is just whether you told Dr. Beam that you  
[10] were in contact with an attorney on --  
[11] A. Yeah, I told him I was trying, I was -- excuse me. I told  
[12] him that I was trying to obtain an attorney. I had contacted  
[13] several and I hadn't gotten no results from any of them yet.  
[14] But I told him, that, that I was in contact with an attorney.  
[15] Q. And as you sit here --  
[16] A. I wrote to them. Actually I wrote to them, I wasn't  
[17] in contact. Because I can't make no calls for nothing like  
[18] that.  
[19] Q. I understand.  
[20] A. But I had wrote letters.  
[21] Q. And as you sit here today, you can't remember the names of  
[22] the attorneys that you wrote to around that time?  
[23] A. Not offhand, no.  
[24] Q. Okay. And that same line says recent lab results it  
[25] indicates that you are ALT levels were 115; correct?

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[1] A. That's correct.  
[2] Q. And is that the first time you had your ALT levels tested,  
[3] if you remember?  
[4] A. No. I don't think that was the first time, no.  
[5] Q. Okay. Do you know an earlier time when you had ALT  
[6] results?  
[7] A. I don't know. I don't know offhand.  
[8] Q. Okay. Now, you continued to file requests to staff asking  
[9] for specific treatment for Hepatitis C; am I correct?  
[10] A. Yes.  
[11] Q. And didn't Dr. Beam explain to you that the BOP guidelines  
[12] for treating Hepatitis C suggested monitoring ALT levels over  
[13] time before antiviral treatment was initiated? Did he explain  
[14] that to you?  
[15] A. Yes, he did, and I said, and I showed him paperwork that I  
[16] had, I took down two of them that state here you should be  
[17] treated right away, not wait until it's three times the normal.  
[18] That would be like if I had cancer, waited until it got three  
[19] times the normal, now there is nothing they can do for me. You  
[20] know what I'm saying? That don't make no sense. It's like any  
[21] disease, the faster, quicker you treat it, better off.  
[22] Q. Do you have a copy --  
[23] A. And I took him that.  
[24] Q. Do you have a copy of the paperwork that you showed to  
[25] Dr. Beam?

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[1] incarceration. And I just want to make sure I understand your  
[2] answer. I had down that you had unprotected sex approximately  
[3] 50 times. Is that all with different partners or is that number  
[4] of times? Can you clarify your answer for me?  
[5] A. Number of times.  
[6] Q. Okay. About how many different partners could you  
[7] estimate did you have unprotected sex with?  
[8] A. Approximately 10, 15.  
[9] Q. Okay. Do you remember if blood was ever exchanged at any  
[10] time that you had unprotected sex?  
[11] A. No.  
[12] Q. No, it wasn't exchanged, just to clarify?  
[13] A. No, it wasn't exchanged.  
[14] Q. Or was there ever any blood caused as a result of sex  
[15] while you had unprotected sex?  
[16] A. Not to my knowledge, no.  
[17] Q. And have you ever had unprotected homosexual sex?  
[18] A. No.  
[19] Q. Have you ever had unprotected heterosexual anal sex?  
[20] A. No.  
[21] Q. Thank you. And we also talked just before the break about  
[22] the times that your ALT levels were tested, and I think your  
[23] testimony, and I just want to make sure I understand it, is that  
[24] your ALT levels were checked more than three times before your  
[25] referral for a liver biopsy, is that what you were saying?

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[1] A. I believe so, yes.  
[2] Q. Okay. I just wanted to make sure, because I understand  
[3] your ALT levels were checked more than three times throughout  
[4] the course of your medical treatment. I just want to make sure  
[5] that you are saying they were checked more than three times  
[6] before your liver biopsy. And that's your testimony?  
[7] A. I believe so, yes.  
[8] Q. Okay. And like we talked about before, if you can point  
[9] to dates other than I mentioned which were October '03, February  
[10] and April '04, you will contact me; right?  
[11] A. Yes.  
[12] Q. Or let me know. Or I'm sorry, May 2004. I was just  
[13] corrected. Thanks. And then we talked about that antiviral  
[14] therapy was initiated in 2004; right?  
[15] A. Yes.  
[16] Q. And did that result in bringing your ALT levels to within  
[17] normal limits?  
[18] A. No, it did not.  
[19] Q. Okay. Do you know when was the last time you had your ALT  
[20] levels checked?  
[21] A. Geez, I think they did them here once, I'm not sure. I  
[22] don't have my paperwork with me.  
[23] Q. Okay. So you don't remember what your last ALT level was?  
[24] A. No.  
[25] Q. Okay. But the antiviral therapy did reduce your ALT

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[1] levels, didn't it?  
[2] A. I believe it started to, yes.  
[3] Q. Okay. What do you mean it started to?  
[4] A. Well, let me explain that a little bit. When they give  
[5] you the first dose of Interferon, that was a full dose. After  
[6] that first dose I got sick from it so Dr. Beam lowered it down  
[7] to like a half a dose. Then from a half a dose down to a  
[8] quarter of a dose. Then he shut me off completely.  
[9] Q. Okay. You did receive 24 weeks of antiviral therapy,  
[10] though, didn't you?  
[11] A. No.  
[12] Q. Okay. Do you remember how many --  
[13] A. No, I was short, I was short I think one dose.  
[14] Q. I'm sorry?  
[15] A. None of it was -- I was short one dose, I believe. And  
[16] the records would show that somewhere. But none of it were full  
[17] doses, so I didn't get the full treatment.  
[18] Q. Okay. Well, I didn't send you those records, but I think  
[19] the records will speak for themselves. But it's your contention  
[20] that you didn't receive a full course of antiviral therapy,  
[21] though, that's what you are saying?  
[22] A. Exactly.  
[23] Q. Okay. And we'll get to some of that. I want to ask you  
[24] about your claims in this lawsuit. You allege in this action  
[25] that the United States was negligent and committed medical

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[1] malpractice with regard to the treatment you received for your  
[2] Hepatitis C; is that correct?  
[3] A. That's correct.  
[4] Q. And your Amended Complaint also alleged constitutional  
[5] claims and medical malpractice claims related to treatment you  
[6] received for a growth on the side of your stomach and  
[7] gallbladder problems; is that correct?  
[8] A. That's correct.  
[9] Q. And you understand that some of your claims have been  
[10] dismissed by the Court including all your constitutional  
[11] violations, as well as your medical malpractice claims with  
[12] regard to the growth on the side of your stomach and your  
[13] gallbladder problems, you understand that; right?  
[14] A. Yes.  
[15] Q. Okay. Because I'm going to ask you about your claims, and  
[16] because those claims have been dismissed, I'm going to ask you  
[17] to limit your answers to my questions to the claims that remain  
[18] in this lawsuit, which are medical malpractice and negligence  
[19] related to the treatment for your Hepatitis C. Do you  
[20] understand that?  
[21] A. Right.  
[22] Q. Okay.  
[23] A. Yes.  
[24] Q. Can you describe for me each and every way that you  
[25] contend the United States was negligent and/or committed medical



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(1) incarceration. And I just want to make sure I understand your  
 (2) answer. I had down that you had unprotected sex approximately  
 (3) 50 times. Is that all with different partners or is that number  
 (4) of times? Can you clarify your answer for me?  
 (5) A. Number of times.  
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(1) malpractice with regard to the treatment you received for your  
 (2) Hepatitis C; is that correct?  
 (3) A. That's correct.  
 (4) Q. And your Amended Complaint also alleged constitutional  
 (5) claims and medical malpractice claims related to treatment you  
 (6) received for a growth on the side of your stomach and  
 (7) gallbladder problems; is that correct?  
 (8) A. That's correct.  
 (9) Q. And you understand that some of your claims have been  
 (10) dismissed by the Court including all your constitutional  
 (11) violations, as well as your medical malpractice claims with  
 (12) regard to the growth on the side of your stomach and your  
 (13) gallbladder problems, you understand that; right?  
 (14) A. Yes.  
 (15) Q. Okay. Because I'm going to ask you about your claims, and  
 (16) because those claims have been dismissed, I'm going to ask you  
 (17) to limit your answers to my questions to the claims that remain  
 (18) in this lawsuit, which are medical malpractice and negligence  
 (19) related to the treatment for your Hepatitis C. Do you  
 (20) understand that?  
 (21) A. Right.  
 (22) Q. Okay.  
 (23) A. Yes.  
 (24) Q. Can you describe for me each and every way that you  
 (25) contend the United States was negligent and/or committed medical

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[1] malpractice with regard to the treatment it provided for your  
[2] Hepatitis C?  
[3] A. Can I explain that to you?  
[4] Q. Yes, sir.  
[5] A. Yeah, I can explain it. By refusing to treat me, for one.  
[6] Not outright refuse me, but delayed the process for over a year.  
[7] Q. Okay. Is there any other way that you believe the United  
[8] States was negligent or committed malpractice, other than by  
[9] delaying your treatment for a year?  
[10] A. Um, well, yeah. They, like I say, all the other problems  
[11] I had, other medical problems that I have and I still have now.  
[12] Q. Okay.  
[13] A. Because of that delay. One of the reasons that I'll  
[14] use as an exhibit down the road, why I lost my gallbladder,  
[15] okay.  
[16] Q. So you believe that --  
[17] A. I can't --  
[18] Q. You believe --  
[19] A. You are telling me I can't go into that because that was  
[20] dismissed. But that's part, that's what started this, the  
[21] Interferon, the lack of treatment taking so long in delaying it  
[22] let my disease progress so long, so far, when I started, when  
[23] they finally started giving me the treatment, that's when I  
[24] started having all the problems with gallbladder and what not.  
[25] Q. So are you saying that your gallbladder problems were

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[1] caused by the antiviral therapy or by the delay in initiating  
[2] antiviral therapy?  
[3] A. I was saying by the delay and the lack of medical  
[4] treatment.  
[5] Q. Okay. What evidence do you have that your gallbladder  
[6] problems were caused by the delay in initiating antiviral  
[7] therapy?  
[8] A. Well, I don't have any evidence to that effect.  
[9] Q. Okay. It's just your belief that the delay caused you to  
[10] have gallbladder problems?  
[11] A. Yes.  
[12] Q. Okay. Are there any other ways that you believe the  
[13] United States was negligent with regard to treating your  
[14] Hepatitis C other than the delay in treatment which also caused  
[15] gallbladder problems?  
[16] A. I don't know at this point in time.  
[17] Q. Okay.  
[18] A. Again, I can't answer that.  
[19] Q. Who specifically was negligent or committed medical  
[20] malpractice?  
[21] A. Who specifically?  
[22] Q. Yes, sir.  
[23] A. The staff at FCI McKean.  
[24] Q. Which individuals?  
[25] A. Well, it was Dr. Olson, Dr. Smith, Dr. Beam, the warden,

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[1] all them. All of them pass the buck down the road, down the  
[2] line, pass the buck, pass the buck. That's, you know, nobody  
[3] wanted to do nothing.  
[4] Q. How was Dr. Olson negligent?  
[5] A. How was he? Because he refused to even speak to me. He  
[6] just passed me, he said I'm going to refer you to Dr. Beam.  
[7] Same with Dr. Smith.  
[8] Q. And how was Dr. Beam negligent?  
[9] A. Well, he is negligent in the part he wouldn't treat me.  
[10] And he tells me, in his own words he told me, he said that "my  
[11] hands are tied. I can't do nothing without OJ. He says if it  
[12] was up to me, I'd be treating you right now."  
[13] Q. And when did Dr. Beam make that statement to you?  
[14] A. He made that statement to me on, right after I started --  
[15] I believe it was during the time that, on the 16th there. I  
[16] believe it was around that time then.  
[17] Q. Around when, I'm sorry?  
[18] A. When I had, on 10/16 when I had a meeting with him.  
[19] Q. Okay.  
[20] A. When I had an appointment with him. I believe it was  
[21] right around then.  
[22] Q. And that was 2003?  
[23] A. Yes, 2003, I believe it was right around then.  
[24] Q. And were there any witnesses to that statement other than  
[25] you and Dr. Beam?

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[1] A. Just, no, just me and Dr. Beam. I asked if he would put  
[2] it in writing and he wouldn't do it.  
[3] Q. And how is the warden negligent with regard to your  
[4] treatment of Hepatitis C?  
[5] A. Well, because the warden is, he is head boss over  
[6] everybody. Nobody do nothing without his okay.  
[7] Q. What injuries do you have as a result of the alleged  
[8] negligence and medical malpractice of the United States in  
[9] treating your Hepatitis C?  
[10] A. What injuries? I have cirrhosis of the liver. I now have  
[11] nine inch scar on my stomach.  
[12] Q. Any other injuries caused by the United States' medical  
[13] malpractice in treating your Hepatitis C other than cirrhosis of  
[14] the liver and the nine inch scar on your stomach?  
[15] A. I got major stress, no physical appearance injuries.  
[16] Q. Okay. I just want to make sure you are finished with your  
[17] answer as to the injuries that you suffered?  
[18] A. Yes.  
[19] Q. So do you believe that the cirrhosis of the liver that you  
[20] have was caused by the delay in beginning antiviral therapy? I  
[21] just want to make sure I understand your testimony.  
[22] A. I believe most of it is, yes.  
[23] Q. What do you mean --  
[24] A. My understanding of the report that they say I had  
[25] alcohol cirrhosis of the liver, but that's two different types



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[1] of cirrhosis of the liver and they know that. That can be  
 [2] detected. I have hepatitis cirrhosis, which is what I'm talking  
 [3] about.  
 [4] Q. So is it your belief that you developed cirrhosis within  
 [5] the approximate one year period that you were diagnosed with  
 [6] Hepatitis C and the time you had the liver biopsy?  
 [7] A. I believe, I believe I developed it between then and the  
 [8] time I got --  
 [9] Q. Hold on, the court reporter can't hear you. Can you  
 [10] repeat my question?  
 [11] (Read back.)  
 [12] Q. Sir, it's your belief that you did not have cirrhosis in  
 [13] September, of the liver, in September of 2003?  
 [14] A. Not Hepatitis C cirrhosis, no.  
 [15] Q. And what evidence do you have to support that belief, if  
 [16] any?  
 [17] A. The only thing, only thing we have is the report from --  
 [18] that's the only thing I have is the report from the biopsy.  
 [19] Q. Okay. You are referring to the liver pathology report?  
 [20] A. Yes.  
 [21] Q. And I think that's at page 191 of Moshier Exhibit,  
 [22] Deposition Exhibit 2?  
 [23] A. Exactly.  
 [24] Q. And can you show me where that supports your belief that  
 [25] the cirrhosis developed over a one year period?

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[1] A. It doesn't say that nowhere. It just says that viral  
 [2] hepatitis with cirrhosis. "Findings should be clinically  
 [3] correlated."  
 [4] Q. Okay. And you read the last sentence there, "findings  
 [5] should be clinically correlated"?  
 [6] A. Yes.  
 [7] Q. And how does that support your position?  
 [8] A. I read it from viral hepatitis, the sentence up.  
 [9] Q. Okay.  
 [10] A. "Viral hepatitis with cirrhosis."  
 [11] Q. So you believe that the pathology report which shows that  
 [12] you have viral hepatitis supports your belief that that  
 [13] hepatitis developed over a one year, or I'm sorry that that  
 [14] cirrhosis developed over a one year period?  
 [15] A. That's just my opinion. I'm not a medical, I'm not a  
 [16] medical doctor, I don't know.  
 [17] Q. I understand. I'm just --  
 [18] A. I don't know how long it takes.  
 [19] Q. So you don't know how long it takes to develop cirrhosis  
 [20] of the liver?  
 [21] A. Not at all.  
 [22] Q. Okay. And you mention that you have a nine inch scar on  
 [23] your stomach. What's that from?  
 [24] A. Yes, I do. That's from where they removed the  
 [25] gallbladder.

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[1] Q. Okay. And you also mention that you suffer from major  
 [2] stress as a result of having Hepatitis C; is that correct?  
 [3] A. Yes, I do. Yes, I do, every day.  
 [4] Q. Can you describe what type of stress you experience?  
 [5] A. I just, I don't know, it's hard to describe. I'm worried  
 [6] about my health every day, you know. What's going to happen. I  
 [7] keep asking the medical staff here to treat me, to get me back  
 [8] into treatment. I'm starting to, I feel that I'm starting now,  
 [9] I'm starting to get sick again, worse than I was before.  
 [10] Headaches constantly. Sounds like I got conk shells on my head,  
 [11] on my ears, you know. I'm always sick to my stomach.  
 [12] Q. And you believe that the headaches and sick to your  
 [13] stomach is related to your Hepatitis C?  
 [14] A. Well, yeah, it's all related.  
 [15] Q. How do you know that?  
 [16] A. I just, I don't know. A doctor would know these  
 [17] things. I don't know. I'm just me. I don't know.  
 [18] Q. Okay.  
 [19] A. I'm not medically capable of making that statement,  
 [20] you know what I'm saying. I don't know.  
 [21] Q. Okay. With regard to the stress that you experience, have  
 [22] you sought any kind of psychological treatment or counseling  
 [23] from anyone at the prison?  
 [24] A. Yes, I have.  
 [25] Q. And who have you seen? What type of medical treatment

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[1] have you received for stress?  
 [2] A. I took a class here for it, anxiety class.  
 [3] Q. At your current institution, Schuylkill?  
 [4] A. Yes.  
 [5] Q. Did that class help ease your symptoms of stress?  
 [6] A. A little bit, not much. But I've also signed up for  
 [7] another class which will start in about 8 weeks.  
 [8] Q. And what's that class about?  
 [9] A. That's another part of an anxiety class, another stress  
 [10] release class.  
 [11] Q. Have you sought treatment from a psychologist or  
 [12] psychiatrist at any of the prisons for stress?  
 [13] A. I talked to one and he is the one that referred me to his  
 [14] class.  
 [15] Q. Okay.  
 [16] A. That's why I took his class here.  
 [17] Q. And who is that doctor that you spoke with or counselor?  
 [18] A. What's his name?  
 [19] MR. KRANZEL: Slaw.  
 [20] A. Slaw.  
 [21] Q. Oh.  
 [22] A. How do you pronounce it?  
 [23] MR. KRANZEL: Psychology technician, Slaw?  
 [24] A. Dr. Slaw.  
 [25] Q. Any idea how to spell that?

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[1] therapy was negligent?  
[2] A. I don't follow you there.  
[3] Q. I just want to make sure that I understand all of your  
[4] claims. Are you alleging that anything was negligent with  
[5] regard to the dosages that you were given of Interferon and  
[6] Ribavirin?  
[7] A. I don't understand what you mean.  
[8] Q. Okay. How about this? What did you mean by that number  
[9] 25 that you wrote down? Why did you list that?  
[10] A. The exact statement by Dr. Beam.  
[11] (Interruption in video satellite.)  
[12] (Break taken.)  
[13] MS. FARRELL: We are going back on the record now.  
[14] Unfortunately, we've had some technical difficulties, and just  
[15] for the record, we are proceeding by audio only and we are going  
[16] to do our best to proceed with this format.  
[17] Q. Are you there, Mr. Moshier?  
[18] A. Yes.  
[19] Q. Before we had our technical difficulties, we were going  
[20] through Interrogatory No. 3 to Moshier Deposition Exhibit 1. Do  
[21] you remember where we were?  
[22] A. Yes.  
[23] Q. That was on page 8.  
[24] A. Right, number 25.  
[25] Q. Okay. Well, I'm just going to back you up a little bit.

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[1] Interrogatory No. 3 on page 8 asks you for evidence supporting  
[2] your claim that your medical care for injuries caused by the  
[3] events alleged in your Amended Complaint did not meet the  
[4] standard of care. Do you see that question?  
[5] A. Yes.  
[6] Q. And I just want to make sure that I understand your answer  
[7] with regard to your claim that the medical care for your  
[8] Hepatitis C did not meet the standard of care. My understanding  
[9] is that you are alleging that your treatment was negligent  
[10] because you did not receive Interferon and Ribavirin treatment  
[11] until after about a year after you tested positive for Hepatitis  
[12] C; is that correct?  
[13] A. Yes, I believe so, yeah.  
[14] Q. Okay. And then you also state, your answer lists some  
[15] things and then number 10 to 35, and we were looking at 25,  
[16] which states and I'll just read that, "In January 2005  
[17] Plaintiff's system rejects treatment by Dr. Beam, in the interim  
[18] Dr. Beam gives plaintiff one-half the original dose of the past  
[19] four months." Do you see what I read there?  
[20] A. Yes.  
[21] Q. And I'm just trying to figure out what your claim is. How  
[22] does that support your claim of medical malpractice with regard  
[23] to the treatment for Hepatitis C?  
[24] A. Well, he wasn't giving me the proper treatment. According  
[25] to the information I acquired out of the medical book, this is

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[1] just recently, but even here he had me supposedly supposed to be  
[2] taking one full pill every Thursday. He had cut me down to a  
[3] half a dose every Thursday, which is once a week. According to  
[4] the medical, and I did make copies of that, according to the  
[5] medical, the Interferon is supposed to be taken once every day  
[6] for a year. So, yeah, negligence is there because he wasn't  
[7] giving me the proper treatment.  
[8] Q. And just to make --  
[9] A. (Inaudible.)  
[10] Q. I'm sorry, what was that answer?  
[11] A. I say, again it's just, I don't know how I'm saying -- at  
[12] any rate he wasn't giving me the proper treatment.  
[13] Q. Is it your contention that the dose should never have been  
[14] cut to half strength, is that what you are saying was negligent?  
[15] A. Exactly.  
[16] Q. Okay. And you said you have a medical book to support  
[17] this contention?  
[18] A. Well, no, I don't have the book. Somebody else had the  
[19] book and I made photocopies of the page, of that.  
[20] Q. Okay. Do you have a copy of those photocopies that you  
[21] could provide to me?  
[22] A. Yes, I'll send you copies when I got released from the  
[23] SHU. I can't do nothing til I get released.  
[24] Q. I understand. What was the medical book? Do you remember  
[25] what you copied that from?

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[1] A. No, I don't, offhand. It's medical guide, 2006 medical  
[2] guide.  
[3] Q. And how did you get a copy of that 2006 medical guide?  
[4] A. Another inmate here at the compound here at Schuylkill has  
[5] that book.  
[6] Q. Who is the inmate?  
[7] A. And he let me look at it. Huh?  
[8] Q. What's that?  
[9] A. Oh, I don't know who the inmate is. I don't know who owns  
[10] the book. It was in the law library, somebody let me see it.  
[11] And I looked that up and made a copy of that.  
[12] Q. Okay. Wasn't your dosage cut because you were  
[13] experiencing side effects, though?  
[14] A. No -- he said that I wasn't experiencing no side effects.  
[15] He said that because of, he cut my dose because of something to  
[16] do with my white blood cell was dropping. I'm not really sure  
[17] what that was.  
[18] Q. And when you refer to "he," you meant Dr. Beam told you  
[19] that he was cutting the dosage because your white blood cell  
[20] counts were dropping?  
[21] A. Yes, exactly.  
[22] Q. Okay. But you don't believe that that's a sufficient  
[23] reason to cut your dosage?  
[24] A. No, it wasn't, I don't believe so.  
[25] Q. Okay. I just want to make sure I understand what you are

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[1] A. Yes, he will.  
[2] Q. -- will he testify to?  
[3] A. Me being sick all the time and he can also testify because  
[4] he was also in the hole with me, how they refused to treat me  
[5] with my stomach ache until my gallbladder operation.  
[6] Q. Okay. So will all the inmates listed on page 11-A and  
[7] 11-B, will they all provide testimony regarding your Hepatitis  
[8] C?  
[9] A. Yes, they will.  
[10] Q. Okay.  
[11] A. And how I'm always sick, fatigued, yes, they will.  
[12] Q. Do you know if any of the inmates that you listed on pages  
[13] 11-A and 11-B in Moshier Deposition Exhibit 1 have filed  
[14] lawsuits against the government related to their medical  
[15] treatment in prison?  
[16] A. The only one that I know of is Darryl Lee Cherry.  
[17] Q. Okay. Do you know if he alleged negligence or deliberate  
[18] indifference based on the treatment of Hepatitis C?  
[19] A. I'm not sure. But at any rate he would deny it. It was  
[20] negligence on Hepatitis C, yes, it was. I know it was Hepatitis  
[21] C.  
[22] Q. Okay. Let's take a look at the next page, which is 12 and  
[23] your Answer to Interrogatory No. 7 which asks you to "Identify  
[24] each expert witness who you may call to testify at trial in  
[25] support of your claim in this action." Do you see where I am?

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[1] A. Uh-huh, yes, yes.  
[2] Q. And the first sentence of your answer states "At this time  
[3] I do not have any expert witness to testify and support me in  
[4] this claim." Do you see that answer?  
[5] A. That's the truth.  
[6] Q. And is your answer still --  
[7] A. That's true.  
[8] Q. Is your answer still accurate that you have not retained  
[9] an expert to testify in this case on your behalf?  
[10] A. That's still accurate, I have no expert.  
[11] Q. Have you consulted with or had any discussions with expert  
[12] witnesses to testify on your behalf?  
[13] A. No, I have not.  
[14] Q. Let's skip to your Answer to Interrogatory No. 10, it's on  
[15] page 15. Let me know when you are there.  
[16] A. I'm there.  
[17] Q. And this asks you to "Identify all hospitals, physicians  
[18] or other health care providers who have examined, treated or  
[19] consulted with you for the 20 year period prior to your  
[20] incarceration in 2002." And you listed Cayuga Medical Center  
[21] and Driscoll, do you see your answers there?  
[22] A. Yes.  
[23] Q. And now is that Dr. Driscoll?  
[24] A. Yes, it is. I just forgot to put the doctor on front of  
[25] that.

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[1] Q. Is his first name Daniel?  
[2] A. Yes, it is.  
[3] Q. Do you know what kind of doctor is Dr. Driscoll?  
[4] A. I believe he is just a regular family doctor.  
[5] Q. Have you been given treatment by any other health care  
[6] providers other than what you listed in your Answer to  
[7] Interrogatory No. 10?  
[8] A. I've had numerous other doctors, but I don't know who they  
[9] are, where they are, for my back.  
[10] Q. I'm sorry?  
[11] A. That was for my back. Treatment for my back.  
[12] Q. Okay. Have you gotten an answer to the letter you wrote  
[13] to Cayuga Medical Center since --  
[14] A. Yes, I have. They sent me my, they sent me records.  
[15] They sent me medical records from 1998, I believe '98 til '99 is  
[16] what they had on file.  
[17] Q. When you are able to access those records, could you  
[18] please send me a copy of what you received --  
[19] A. Oh, I don't know. That's a lot of copies.  
[20] Q. Okay.  
[21] A. I don't have the money to make copies of all them.  
[22] Q. Well, how voluminous is it?  
[23] A. Huh?  
[24] Q. How --  
[25] A. I would say there is probably as many as there is

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[1] here, Interrogatories or more.  
[2] Q. So, what, about 40 pages?  
[3] A. Or better, yeah, probably even more.  
[4] Q. Okay.  
[5] A. I'll see what I can do.  
[6] Q. Can you make those copies available to the prison and we  
[7] could make copies for you? Would that be an acceptable  
[8] alternative?  
[9] A. That I can do, yes.  
[10] Q. Okay. Well, we'll work with your unit manager, because  
[11] I'm entitled to receive a copy of those records. But --  
[12] A. Okay.  
[13] Q. -- we'll work with --  
[14] A. Okay.  
[15] Q. We'll work with getting a copy of those from you without  
[16] you having to pay for copying those. But you'll agree to make  
[17] those available?  
[18] A. Yes.  
[19] Q. Okay. Thank you. Let's look at your answer to the next  
[20] Interrogatory, which is No. 11, and appears on page 16 of  
[21] Moshier Deposition Exhibit 1. Do you see where I am?  
[22] A. Yes.  
[23] Q. And this asks you about hospitalization. And your answer,  
[24] letter C, indicates "a back injury in 1989, appendix removal in  
[25] 1998 and surgery on left knee 1999"; do you see that answer?